

## ~CHAPTER 20~

### REVENUE & FINANCE

#### **SECTION 1:**

PURPOSE. The purpose of this ordinance is to provide additional needed revenue for the Municipality of Hot Springs, Fall River County, South Dakota, by imposing a municipal retail sales and use tax pursuant to the powers granted to the municipality by the State of South Dakota, by SDCL 10-52 entitled Uniform Municipal Non-Ad Valorem Tax Law, and acts amendatory thereto. [Ord. 999, Eff. 8/26/03]

#### **Section 20-1. Imposition of Municipal Sales Tax and Service Tax.**

For the purpose of providing additional needed revenue for the City of Hot Springs from and after October 1, 1971, pursuant to the powers granted to the municipality by the State of South Dakota by SDCL 10-52 entitled Uniform Non-Ad Valorem Tax Law, and acts amendatory thereto, there is hereby imposed a municipal retail occupational sales and service tax upon the privilege of engaging in business a tax of one percent (1%) on the gross receipts of all persons engaged in business within the jurisdiction of the City of Hot Springs, Fall River County, South Dakota, who are subject to the South Dakota Retail Occupational Sales and Service Tax, SDCL 10-45 and acts amendatory thereto.

#### **Section 20-2. Collection of Municipal Sales and Service Tax.**

The municipal sales and service tax herein levied shall be collected by the South Dakota Department of Revenue in accordance with the same rules and regulations as the commissioner of Revenue of the State of South Dakota shall lawfully prescribe.

#### **Section 20-3. Exemption from Municipal Sales and Service Tax.**

In addition to gross receipts exempted by state law and therefore from tax imposed hereunder, there are hereby specifically exempted from the provisions of this ordinance and from computation of the amount of tax imposed by it, the following.

- A. Farm machinery and irrigation equipment used exclusively for agricultural purposes.
- B. Gross receipts from vending machines, including but not limited to pinball machines, phonographs and all other mechanical devices for amusement.
- C. Sales of tangible personal property and taxable services to purchasers residing or doing

business outside the City provided that delivery is made to such purchaser outside the City by common carrier or by the conveyance of the seller or by the United States mail, and provided that the articles so purchased and delivered are used outside the City. Receipts from sales to a construction company of materials and supplies which are incorporated into and become part of projects outside the City limits are exempt from municipal sales and use tax, even if delivery is made to a truck of the construction company within the City.

**Section 20-4. Imposition of Municipal Use Tax.**

In addition, there is hereby imposed an excise tax on the privilege of the use, storage, and consumption within the jurisdiction of the City of tangible personal property purchased from and after the 1<sup>st</sup> day of October, 1971, at the same rate as the municipal sales and service tax upon all transactions for use, storage, and consumption which are subject to the South Dakota Use Tax Act, SDCL 10-46, and acts amendatory thereto.

**Section 20-5. Interpretation.**

It is declared to be the intention of the taxes levied herein that the same shall be interpreted and construed in the same manner as all sections of the South Dakota Retail Occupational Sales and Service Act, SDCL 10-45 and acts amendatory thereto and the South Dakota Use Tax, SDCL 10-46 and acts amendatory thereto, and that this shall be considered a similar tax except for the rate thereof to that tax.

**Section 20-6. Penalty.**

Any person failing or refusing to make reports or payments prescribed herein and the rules and regulations relating to the ascertainment and collection of the tax herein levied shall be guilty of a misdemeanor and upon conviction shall be fined not more than Two Hundred Dollars (\$200.00). In addition, all such collection remedies authorized by SDCL 10-45, and acts amendatory thereto, and SDCL 10-46, and acts amendatory thereto, are hereby authorized for the collection of these excise taxes by the Department of Revenue.

**Section 20-7. Purpose for Additional Municipal Sales and Service Tax and Use Tax.**

The purpose of this ordinance is to provide additional needed revenue for the City of Hot Springs, South Dakota, for the purpose of capital improvement, land acquisition, and debt retirement by imposing an additional municipal retail sales and use tax pursuant to the powers granted to the municipality by the

State of South Dakota by SDCL Chapter 10-52 entitled Municipal Non-Ad Valorem Tax Law, and acts amendatory thereto.

**Section 20-8. Effective Date and Enactment of Tax.**

From and after the first day of January 2005, there is hereby imposed as a municipal retail occupational sales and service tax upon the privilege of engaging in business a tax measured by two percent (2%) on the gross receipts of all persons engaged in business within the jurisdiction of the municipality of Hot Springs, Fall River County, South Dakota, who are subject to the South Dakota Retail Occupational Sales and Service Tax SDCL 10-45 and acts amendatory thereto. [Ord. 999, Eff. 8/26/03; Ord. 1007, Eff. 9/14/04 and Ord. 1021, Eff. 8/9/05]

**Section 20-9. Collection.**

Such tax is levied pursuant to authorization granted by SDCL 10-52 and acts amendatory thereto, and shall be collected by the South Dakota Department of Revenue in accordance with the same rules and regulations applicable to the State sales tax and under such additional rules and regulations as the Secretary of Revenue of the State of South Dakota shall lawfully prescribe.

**Section 20-10. Exemptions from Taxation.**

In addition to gross receipts exempted by state law and therefore from tax imposed hereunder, there are hereby specifically exempted from the provisions of this ordinance and from computation of the amount of tax imposed by it, the following:

- A. Parts or repairs on machinery or equipment, which are clearly identifiable as used primarily for agricultural purposes as taxed pursuant to SDCL 10-45-3;
- B. Farm machinery or equipment taxed pursuant to SDCL 10-45-3;
- C. Agricultural animal health products and medicines;
- D. Gross receipts from selling food, as defined by the Food Stamp Act of 1977 (P.L. 95-113), codified at 7 U.S.C. 1012(g), as amended through January 1, 1983, in rules promulgated pursuant thereto.

**Section 20-11. Use Tax.**

In addition, there is hereby imposed an excise tax on the privilege of the use, storage, and consumption within the jurisdiction of the City of tangible personal property purchased from and after the effective date of this ordinance, at the same rate as the additional municipal sales and service tax upon all

transactions for use, storage, and consumption which are subject to the South Dakota Use Tax Act, SDCL 10-46, and acts amendatory thereto.

**Section 20-12. Termination and Usage.**

One-half ( $\frac{1}{2}$ ) of the additional municipal sales and service tax and use tax imposed by Section 20-8 of Chapter 20 of the Revised Ordinances of the City of Hot Springs, South Dakota, shall terminate on January 1, 2007. The other one-half ( $\frac{1}{2}$ ) of said additional tax shall be used from and after the effective date of this act solely for street capital improvements within the City of Hot Springs, South Dakota, but shall not be used for equipment purchases for said improvements.

**Section 20-13. Interpretation.**

It is declared to be the intention of this ordinance and taxes levied hereunder that the same shall be interpreted and construed in the same manner as all sections of the South Dakota Retail Occupational Sales and Service Act, SDCL 10-45 and acts amendatory thereto, and the South Dakota Use Tax, SDCL 10-46 and acts amendatory thereto, and that this shall be considered a similar tax except for the rate thereof to that tax.

**Section 20-14. Penalty.**

Any person failing or refusing to make reports or payments prescribed by this ordinance and the rules and regulations relating to the ascertainment and collection of the tax herein levied shall be guilty of a misdemeanor and upon conviction shall be fined not more than Two Hundred Dollars (\$200.00). In addition, all such collection remedies authorized by SDCL 10-45, and acts amendatory thereto, and SDCL 10-46, and acts amendatory thereto, and hereby authorized for the collection of these excise taxes by the Department of Revenue.

**Section 20-15. Additional Municipal Non-ad Valorem Tax.**

Be it ordained by the Common Council of the City of Hot Springs, Fall River County, South Dakota, that the said City of Hot Springs shall, and does hereby, pursuant to the provisions of SDCL Chapter 10-52A, impose an additional municipal non-ad valorem tax at the rate of one percent (1%) upon the gross receipts of all hotel, motel, campsites, or other lodging accommodations within the City of Hot Springs, and upon the sale of alcoholic beverages as defined in SDCL 35-1-1; and the gross sales of all establishments where the public is invited to eat, dine, or purchase and carry out prepared food for immediate consumption; and amusement fees and ticket sales of places of amusement.

That pursuant to the provisions of SDCL Chapter 10-52A, said funds shall be used for the purpose of the promotion and advertising of the City of Hot Springs and its facilities, attractions, and activities, including the maintenance, staffing, and operation of the Hot Springs Chamber of Commerce and for the purpose of land acquisition, architectural fees, construction costs, payments for the civic center, auditorium or athletic facility buildings, including maintenance, staffing and operation of such facilities and the promotion and advertising of the city, its facilities, attractions and activities. [Ord. 1040, Eff. 9/26/06]

**Section 20-16. Prohibiting Property Taxation for Certain Purposes.**

No property tax shall be levied, collected, or expended by the City of Hot Springs for payment on debt service, lease payments, operating expenses or maintenance costs for the Hot Springs Community Center.

This ordinance shall be automatically repealed at such time as the City of Hot Springs, South Dakota, acquires complete ownership of the Community Center facility after the facility has been paid in full.

**Section 20-17 thru 20-29 and Appendixes. Repealed and Moved to Chapter 21.**

**Section 20-30. Code of Conduct Regarding Federal Grant Funds.**

**Purpose.** The purpose of this Code of Conduct is to ensure the efficient, fair, and professional administration of federal grant funds in compliance with federal Office of Management and Budget (OMB) Circular A-102, Attachment O, Paragraph 7, and other applicable federal and state standards, regulations, and laws.

**Application.** This Code of Conduct applies to all officers, employees, or agents of the City of Hot Springs engaged in the award or administration of contracts supported by federal grant funds.

**Requirements.** No officer, employee, or agent of the City of Hot Springs shall participate in the selection, award, or administration of a contract supported by federal grant funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

- A. the employee, officer, or agent;
- B. any member of his/her immediate family;
- C. his/her partner; or
- D. an organization which employs, or is about to employ any of the above;

has a financial or other interest in the firm selected for award.

The City of Hot Springs' officers, employees, or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or subcontractors.

**Remedies.** To the extent permitted by federal, state, or local laws or regulations, violation of these standards may cause penalties, sanctions, or other disciplinary actions to be taken against the City of Hot Springs' officers, employees, or agents, or the contractors, potential contractors, subcontractors, or their agents.

**SECTION 2:** That all ordinances or parts of ordinances in conflict with this ordinance are hereby repealed insofar as they contradict any provisions of this ordinance. [Ord. 1040, Eff. 9/26/06]

**SECTION 3:** It is further ordained that this Ordinance is necessary for the support of municipal government and its existing institutions, wherefore an emergency exists and this ordinance shall take effect upon passage and publication thereof. [Ord. 1040, Eff. 9/26/06]